

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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EDWARD LAMA,

Plaintiff,

-against-

CITY OF NEW YORK and JOHN and JANE DOE 1
through 10, individually (the names John and Jane Doe
being fictitious, as the true names are presently unknown),

Defendants.
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COMPLAINT

Index No.

Jury Trial Demanded

Plaintiff EDWARD LAMA, by his attorney, Robert Marinelli, Esq., complaining of the
defendants, respectfully alleges as follows:

PRELIMINARY STATEMENT

1. Plaintiff brings this action for compensatory damages, punitive damages, and
attorneys' fees pursuant to 42 U.S.C. §§1983 and 1988 for violations of his civil rights, as said rights
are secured by said statutes and the Constitution of the United States.

JURISDICTION

2. This action is brought pursuant to 42 U.S.C. §§1983 and 1988, and the Fourth and
Fourteenth Amendments to the United States Constitution.

3. Jurisdiction is conferred on this Court by 28 U.S.C. §1331, 1343, and 1367.

VENUE

4. Venue is properly laid in the Southern District of New York under 28 U.S.C.
§1391(b), in that this is the District in which the claim arose.

JURY DEMAND

5. Plaintiff respectfully demands a trial by jury of all issues in this matter pursuant to Fed. R. Civ. P. 38(b).

PARTIES

6. The Plaintiff EDWARD LAMA is and was at all times relevant herein a resident of Kings County, New York.

7. Defendant CITY OF NEW YORK (“City”) is a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.

8. Defendant CITY OF NEW YORK maintains the New York City Police Department (“NYPD”), a duly authorized public authority and/or police department, authorized to perform all functions of a police department as per the applicable sections of the aforementioned municipal corporation, defendant CITY OF NEW YORK.

9. That at all times hereinafter mentioned, the individually named defendants, JOHN AND JANE DOE 1 through 10, were duly sworn officers of the NYPD and were acting under the supervision of the NYPD and according to their official duties.

10. That at all times hereinafter mentioned the defendants, either personally or through their employees, were acting under color of state law and/or in compliance with the official rules, regulations, laws, statutes, customs, usages, and/or practices of the State of New York and/or the City of New York.

11. Each and all of the acts of the defendants alleged herein were committed by said defendants while acting within the scope of their employment by defendant CITY OF NEW YORK.

STATEMENT OF FACTS

12. On or about October 22, 2015, at approximately 9:00 a.m., plaintiff EDWARD LAMA was arrested after his ex-girlfriend made a complaint to the NYPD.

13. Mr. Lama was charged with aggravated harassment in the second degree under Penal Law Section 240.30(1)(a).

14. In 2014, New York's highest court found that Penal Law Section 240.30(1)(a) was unconstitutionally overbroad and vague.

15. At the time Mr. Lama was charged with aggravated harassment, the statute was unconstitutional.

16. Mr. Lama remained in custody for approximately 13 to 14 hours.

17. All charges were ultimately dismissed.

AS AND FOR A FIRST CAUSE OF ACTION

(False Arrest/Unlawful Imprisonment under 42 U.S.C. §1983 as to
defendants John and Jane Doe 1 through 10)

18. Plaintiff repeats, reiterates, realleges each and every allegation with the same force and effect as if fully set forth herein.

19. Defendants arrested plaintiff without probable cause, causing him to be detained against his will for an extended period of time and subjected to physical restraints.

20. Defendants caused plaintiff to be falsely arrested and unlawfully imprisoned.

21. As a result of the foregoing, plaintiff is entitled to compensatory damages in an amount to be fixed by a jury, and is further entitled to punitive damages against the individual defendants in an amount to be fixed by a jury, plus reasonable attorneys' fees, costs, and disbursements of this action.

AS AND FOR A SECOND CAUSE OF ACTION

(Fourth Amendment Claim of Unreasonable Search under 42 U.S.C. §1983
as to defendants John and Jane Doe 1 through 10)

22. Plaintiff repeats, reiterates, and realleges each and every allegation with the same force and effect as if fully set forth herein.

23. Defendants unreasonably searched plaintiff thereby causing plaintiff to suffer emotional distress, embarrassment, humiliation, and loss of privacy.

24. As a result of the foregoing, plaintiff is entitled to compensatory damages in an amount to be fixed by a jury, and is further entitled to punitive damages against the individual defendants in an amount to be fixed by a jury, plus reasonable attorneys' fees, costs, and disbursements of this action.

PRAYER FOR RELIEF

WHEREFORE, plaintiff demands judgment and prays for the following relief, jointly and severally, against the defendants:

- A. full and fair compensatory damages in an amount to be determined by a jury;
- B. punitive damages against the individual defendants in an amount to be determined by a jury;
- C. reasonable attorneys' fees and the costs and disbursements of this action; and
- D. such other and further relief as appears just and proper.

DATED: January 19, 2016
New York, New York

s/_____
Robert Marinelli
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Attorney for Plaintiff